



UNITED STATES PATENT AND TRADEMARK OFFICE

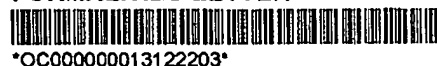
UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/822,260	04/09/2004	Michael Coyle	10684-035-999

20583
JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

CONFIRMATION NO. 2689

FORMALITIES LETTER



OC000000013122203

Date Mailed: 07/01/2004

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

02/08/2005 DTESSEH1 00000030 010467 10822260

01 FC:8021

40.00 DP

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

02/08/2005 DTESSEH1 00000030 010467 10822260

Items Required To Avoid Abandonment:

03 FC:2051

65.00 DP

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given **TWO MONTHS** from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items identified in this letter.

The following item(s) appear to have been omitted from the application:

- Figure(s) 14C & 14D described in the specification.

I. Should applicant contend that the above-noted omitted item(s) was in fact deposited in the U.S. Patent and Trademark Office (USPTO) with the nonprovisional application papers, a copy of this Notice and a petition (and \$130.00 petition fee (37 CFR 1.17(h))) with evidence of such deposit must be filed within **TWO MONTHS** of the date of this Notice. The petition fee will be refunded if it is determined that the item(s) was received by the USPTO.

II. Should applicant desire to supply the omitted item(s) and accept the date that such omitted item(s) was filed in the USPTO as the filing date of the above-identified application, a copy of this Notice, the omitted item(s) (with a supplemental oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items), and a petition under 37 CFR 1.182 (with the \$130.00 petition fee (37 CFR 1.17(h))) requesting the later filing date must be filed within **TWO MONTHS** of the date of this Notice.

Applicant is advised that generally the filing fee required for an application is the filing fee in effect on the filing date accorded the application and that payment of the requisite basic filing fee on a date later than the filing date of the application requires payment of a surcharge (37 CFR 1.16(e)). To avoid processing delays and payment of a surcharge, applicant should submit any balance due for the requisite filing fee based on the later filing date being requested when submitting the omitted items(s) and the petition (and petition fee) requesting the later filing

date.

III. The failure to file a petition (and petition fee) under the above options (I) or (II) within **TWO MONTHS** of the date of this Notice (37 CFR 1.181(f)) will be treated as a constructive acceptance by the applicant of the application as deposited in the USPTO. **THIS TWO MONTH PERIOD IS NOT EXTENDABLE UNDER 37 CFR 1.136(a) or (b).** In the absence of a timely filed petition in reply to this Notice, the application will maintain a filing date as of the date of deposit of the application papers in the USPTO, and original application papers (*i.e.*, the original disclosure of the invention) will include only those application papers present in the USPTO on the date of deposit.

In the event that applicant elects not to take action pursuant to options (I) or (II) above (thereby constructively electing option (III)), amendment of the specification to renumber the pages consecutively and cancel incomplete sentences caused by any omitted page(s), and/or amendment of the specification to cancel all references to any omitted drawing(s), relabel the drawing figures to be numbered consecutively (if necessary), and correct the references in the specification to the drawing figures to correspond with any relabeled drawing figures, is required. A copy of the drawing figures showing the proposed changes in red ink should accompany with any drawing changes. Such amendment and/or correction to the drawing figures, if necessary, should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

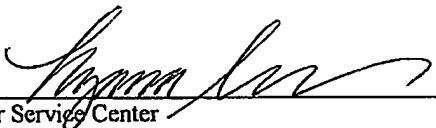
SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **\$65** for a Small Entity

- **\$65** Late oath or declaration Surcharge.

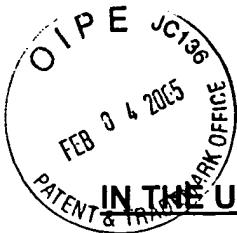
Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

*A copy of this notice **MUST** be returned with the reply.*



Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Behar et al.
Serial No.: 10/822,260
For: SYSTEMS AND METHODS FOR RESPIRATORY EVENT DETECTION
Filed: April 9, 2004
Examiner: Not Yet Assigned
Art Unit: 3736
Confirmation No.: 2689
Customer No.: 27,623

Attorney Docket No.: 0001733USU/3053
(formerly 10684-035-999)

**Mail Stop Missing Parts
COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450**

Dear Sir:

**TRANSMITTAL OF MISSING PARTS OF APPLICATION AND
PAYMENT OF SURCHARGE UNDER 37 C.F.R. §1.16(e)**

Transmitted herewith are the following documents pertaining to the above-identified application:

XXX Declaration and Power of Attorney executed by Andrew BEHAR; Michael COYLE; Desmond KEENAN; Alexander DERCHAK; Marvin SACKNER; Frank WILHELM; Keith GILROY; Emmerance GUMMELS; Paul KENNEDY and Mark MITCHNICK.

XXX The undersigned attorney has verified that the above-identified applicant is entitled to Small Entity Status.;

XXX Petition Under 37 CFR 1.47(a);

XXX Declaration of Syrie Hope in Support of Petition Under 37 CFR 1.47(a);

_____ Sheets of Formal Drawings;

XXX An Assignment of the Invention to : VivoMetrics, Inc., including \$40.00 recordation fee and Assignment Recordation Cover Sheet;

_____ A Certified Copy of the Priority Application;

_____ Information Disclosure Statement (Form - 1449); and

BEST AVAILABLE COPY

XXX Preliminary Amendment'

XXX A copy of the Notice to File Missing Parts of Application Filing Date Granted.

XXX Petition and Fee for Extension of Time (37 CFR 1.136(A)).

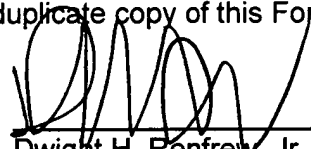
The Filing Fee is calculated below.

CLAIMS AS FILED				
(1) For	(2) Number Filed	(3) Number Extra	(4) Rate	(5) Basic Fee \$300.00
Total Claims	- 20 =	0	x \$50.00	\$
Independent Claims	- 3 =	0	x \$200.00	\$
Multiple Dependent Claim Fee		x \$360.00 = \$0.00		
SEARCH FEE		\$500.00		
EXAMINATION FEE		\$200.00		
NATIONAL STAGE APPLICATION SIZE FEE (\$250 FOR EACH ADDITIONAL 50 SHEETS OVER 100 SHEETS)		\$		
TOTAL FILING FEE		\$		
1/2 FILING FEE FOR SMALL ENTITY		\$		

X A check in the amount of **\$1,315.00** (\$1,080 – 5 month extension fee; \$130 – 37 CFR 1.47(a) Petition Filing Fee; \$65 – Missing Parts surcharge; and \$40 recordation fee)

X The Commissioner is hereby authorized to charge any additional fees under 37 C.F.R. §§1.16 and 1.17 which may be required with this communication or during the entire pendency of the application, or credit any overpayment, to **Deposit Account No. 01-0467**. A duplicate copy of this Form is enclosed.

Dated: February 1, 2005


Dwight H. Renfrew, Jr., Esq.
Attorney for Applicant(s)
Registration No. 38,594
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.
One Landmark Square, 10th Floor
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Telephone: (203) 327-4500
Telefax: (203) 327-6401

CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE U.S. POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO: MAIL STOP MISSING PARTS, COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450, ON FEBRUARY 1, 2005.

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Theresa Doonan Recupido

DATE 2/10/05



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Behar et al.
Serial No: 10/822,260
Title: SYSTEMS AND METHODS FOR
RESPIRATORY EVENT DETECTION
Filed: April 9, 2004
Examiner: (to be determined)
Art Unit: 3736
Docket No.: 0001733USU/2053 (formerly 10684-035-999)
Confirmation No.: 2689
Customer No.: 27,623

**RESPONSE TO NOTICE TO FILE MISSING PARTS
OF NON-PROVISIONAL APPLICATION**

Mail Stop Petition

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Commissioner:

A Notice to File Missing Parts of a Non-Provisional Application (Notice) was mailed on July 1, 2004 in connection with the above-identified application. Applicants respond to the requirements of the Notice as follows:


- a. A signed declaration: Applicants submit a declaration signed in counterparts by ten of the eleven inventors. The eleventh inventor, Mr. Dana Inman, could not be reached after diligent effort. Accordingly, also submitted is a Petition Under 37 C.F.R. § 1.47(a) accompanied by a Declaration of Syrie Hope.
- b. A \$65.00 fee: The attached check of Ohlandt, Greeley, Ruggiero & Perle, L.L.P. includes this fee (and also the fees for the Petition and a Request For Extension Of Time for five months).

c. Figs. 14C and 14D appear to have been omitted from the specification:
Applicants attached a Preliminary Amendment deleting the single reference to Figs. 14C and 14D in the specification. It is submitted that this Preliminary Amendment fully corrects this matter.

It is respectfully submitted that this Response together with its accompanying documents are complete in all respects and it is requested that this Petition be granted and that this application proceed to examination.

Respectfully submitted,

February 1, 2005
Date:



Dwight H. Renfrew, Jr.
Reg. No. 38,594
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Enclosures